

**IN THE UNITED STATES DISTRICT COURT FOR THE
MIDDLE DISTRICT OF ALABAMA
SOUTHERN DIVISION**

UNITED STATES OF AMERICA)
)
v.) Case No.: 1:08-cr-68-WC
)
BRITTANY M. LEE)

UNOPPOSED MOTION TO CONTINUE TRIAL

NOW COMES the Defendant, **BRITTANY M. LEE**, by and through the undersigned counsel, Michael J. Petersen, and respectfully moves this Court to reset the above-referenced matter now scheduled for trial on the September 22, 2008 misdemeanor trial docket to allow for the consideration of pretrial diversion in this matter. In support of this Motion, defendant would show:

1. The Government, through Special United States Attorney Emily Ruisanchez has no opposition to the granting of this Motion.
2. On May 13, 2008, Ms. Lee was arraigned on an Information charging offenses involving theft of government property.
3. The Government agrees that diversion is the appropriate disposition of the case, and has presented the matter to the United States Probation Office for its determination of whether or not to accept Ms. Lee into the program.
4. On August 14, 2008, Senior United States Probation Officer, Bob Pitcher, requested contact information for Ms. Lee in order that a pre-trial diversion interview and report could be conducted and prepared. This information was transmitted to Officer Pitcher on August 18, 2008.

4. Ms. Lee respectfully requests a continuance from the current misdemeanor trial setting on September 22, 2008, in order that the United States Probation Office have sufficient time to investigate and consider her qualifications and application for pre-trial diversion. Undersigned counsel has conferred with Senior United States Probation Officer, Bob Pitcher, and has been informed such investigation will be complete before the November 2008 misdemeanor trial term.

5. While requests for a continuance are addressed to the sound discretion of the trial court, *United States v. Darby*, 744 F.2d 1508, 1521(11th Cir. 1984), *reh'g denied* 749 F.2d 733, *cert. denied*, 471 U.S. 1100 (1985), undersigned counsel feels that, in this case, because prosecution may be deferred/diverted if pretrial diversion is granted, it is in the interest of justice to continue the trial in this matter so as to allow Ms. Lee the opportunity to pursue diversion. 18 U.S.C. §§ 3161(h)(2) and 3161(h)(8)(B)(I).

WHEREFORE, defendant respectfully requests that this Motion be granted and the trial now set on the September 22, 2008, misdemeanor trial docket be continued.

Dated this 20th day of August 2008.

Respectfully submitted,
s/ Michael J. Petersen
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CERTIFICATE OF SERVICE

I hereby certify that on August 20, 2008, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to the following:

Assistant United States Attorney Todd A. Brown and Special Assistant U.S. Attorney, Emily M. Ruisanchez.

Respectfully submitted,

s/ Michael J. Petersen
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